

_____ BILL NO. _____

INTRODUCED BY _____
(Primary Sponsor)

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE PRIMARY SECTOR BUSINESS WORKFORCE TRAINING ACT TO AUTHORIZE THE USE OF TRAINING FUNDS FOR TRAINING AND EDUCATING EMPLOYEES FOR BOTH NEW AND EXISTING JOBS; AMENDING SECTIONS 39-11-102, 39-11-103, 39-11-201, AND 39-11-202, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 39-11-102, MCA, is amended to read:

"39-11-102. (Temporary) Purpose. (1) The Primary Sector Business Workforce Training Act is created to meet the training needs of existing industries in the state and to provide incentives to businesses to locate and expand within the state through government-assisted new jobs training.

(2) It is the intent of the legislature to provide training funds for businesses to train and educate employees, which will result in the retention, production, or retention and production of high-wage and high-skilled jobs that will increase the earning potential and employment opportunities for Montana employees and enhance the state's economy. (Terminates June 30, 2009--sec. 4, Ch. 169, L. 2005.)"

Section 2. Section 39-11-103, MCA, is amended to read:

"39-11-103. (Temporary) Definitions. As used in this chapter, the following definitions apply:

(1) "Average weekly wage" has the meaning provided in 39-71-116.

(2) "Department" means the department of commerce established in 2-15-1801.

(3) "Eligible training provider" means:

(a) a unit of the university system, as defined in 20-25-201;

(b) a community college district, as defined in 20-15-101;

(c) an accredited, tribally controlled community college located in the state of Montana; or

(d) an entity approved to provide workforce training that is included on the eligible training provider list.

(4) "Eligible training provider list" means the list maintained by the department of labor and industry of those eligible training providers who may be used to provide workforce training under a grant authorized in

1 39-11-202.

2 (5) "Employee" means the individual employed in a ~~new~~ full-time job.

3 (6) "Employer" means the individual, corporation, partnership, or association providing new jobs,
4 retaining existing jobs, or providing new jobs and retaining existing jobs and entering into a grant contract.

5 (7) (a) "Existing job" means a present full-time job in an eligible business. The term includes:

6 (i) jobs for recalled employees returning to positions held previously or for replacement employees; and

7 (ii) other jobs that previously existed within the employment of the employer in the state.

8 (b) The term does not include jobs for employees newly hired as a result of a labor dispute.

9 ~~(7)(8)~~ "Full-time job" means a predominantly year-round position requiring an average of 35 hours of
10 work each week in an eligible business.

11 ~~(8)(9)~~ (a) "New job" means a newly created full-time job in an eligible business.

12 (b) The term does not include:

13 (i) jobs for recalled employees returning to positions held previously, for replacement employees, or for
14 employees newly hired as a result of a labor dispute, part-time or seasonal jobs, or other jobs that previously
15 existed within the employment of the employer in the state; or

16 (ii) jobs created by an employer as the result of an acquisition of a Montana company or entity if those
17 jobs previously existed in the state of Montana in the acquired company or entity unless it is demonstrated that
18 the jobs:

19 (A) are substantially different as a result of the acquisition; and

20 (B) will require new training for the employee to meet new job requirements.

21 ~~(9)(10)~~ "Primary sector business" means an employer engaged in establishing, retaining, or expanding
22 operations within Montana that through the employment of knowledge or labor add value to a product, process,
23 or export service that results in the creation of new wealth and:

24 (a) for which at least 50% of the sales of the employer occur outside of Montana;

25 (b) the employer is a manufacturing company with at least 50% of its sales to other Montana companies
26 that have 50% of their sales occurring outside of Montana; or

27 (c) the employer is a new business that provides, as determined by the committee provided for in
28 39-11-201, a product or a service that is not available in Montana or a substantially similar product or service that
29 is not available in Montana, which results in state residents leaving the state to purchase the product or service.

30 ~~(10)(11)~~ "Primary sector business training program" or "program" means the grant provided to employers

for the purpose of working with eligible training providers to provide employees with education and training required for jobs in ~~new or expanding~~ primary sector businesses in the state.

~~(11)(12)~~ (a) "Program costs" means all necessary and incidental costs of providing program services.

(b) The term does not include the cost of equipment to be owned or used by the eligible training provider.

~~(12)(13)~~ "Program services" means training and education specifically directed to ~~the new~~ jobs, including:

(a) all direct training costs, such as:

(i) program promotion;

(ii) instructor wages, per diem, and travel;

(iii) curriculum development and training materials;

(iv) lease of training equipment and training space;

(v) miscellaneous direct training costs;

(vi) administrative costs; and

(vii) assessment and testing;

(b) in-house or on-the-job training; and

(c) subcontracted services with eligible training providers. (Terminates June 30, 2009--sec. 4, Ch. 169, L. 2005.)"

Section 3. Section 39-11-201, MCA, is amended to read:

"39-11-201. (Temporary) Grant review committee -- appointment -- powers and duties -- rulemaking authority. (1) There is a seven-member grant review committee, as follows:

(a) two representatives from the private sector representing economic development, appointed by the governor;

(b) two representatives from the commercial banking community, one appointed by the president of the senate and one appointed by the speaker of the house, one of whom serves on a local workforce investment board;

(c) one representative from a 2-year postsecondary institution, as defined in 20-9-706, appointed by the governor;

(d) one representative from the department, appointed by the governor; and

(e) one representative from the department of labor and industry, appointed by the governor.

(2) Subject to appropriation by the legislature and 39-11-202(4)(d), the committee shall award training

1 grants to a primary sector business qualified under 39-11-202 after a determination that the primary sector
2 business:

3 (a) has prospects for achieving commercial success and for creating new jobs, retaining existing jobs,
4 or both in the state;

5 (b) has prospects for collaboration between the public and private sectors of the state's economy;

6 (c) has potential for commercial success related to the specific product, process, or business
7 development methodology proposed; and

8 (d) can provide matching funds.

9 (3) A committee member may not personally apply for or receive a primary sector business workforce
10 training grant. If an organization with which a member is affiliated applies for a grant, the member shall disclose
11 the nature of the affiliation and, if the committee member is a board member or officer of the organization, may
12 not participate in the decision of the committee regarding the grant application.

13 (4) The committee shall adopt rules to:

14 (a) provide for grant application procedures;

15 (b) develop procedures for awarding grants pursuant to the criteria provided in 39-11-202; and

16 (c) develop independent review and audit procedures to ensure that grants have been used for the
17 purposes identified in the grant contracts.

18 (5) All decisions of the committee are final and are not subject to the contested case provisions of Title
19 2, chapter 4.

20 (6) The committee is allocated to the department for administrative purposes only as provided in
21 2-15-121. (Terminates June 30, 2009--sec. 4, Ch. 169, L. 2005.)"

22
23 **Section 4.** Section 39-11-202, MCA, is amended to read:

24 **"39-11-202. (Temporary) Primary sector business workforce training grants -- eligibility. (1)**

25 Subject to appropriation by the legislature, the grant review committee provided for in 39-11-201 may award
26 workforce training grants to primary sector businesses that provide education or skills-based training, through
27 eligible training providers from the eligible training provider list, for employees in new jobs, existing jobs, or both.

28 (2) To be eligible for a grant, an applicant shall demonstrate that at least 50% of the applicant's sales
29 will be from outside of Montana or that the applicant is a manufacturing company with 50% of its sales from
30 companies that have 50% of their sales outside of Montana and must meet at least one of the following criteria:

- 1 (a) be a value-adding business as defined by the Montana board of investments;
2 (b) demonstrate a significant positive economic impact to the region and state beyond the job creation
3 involved;
4 (c) provide a service or function that is essential to the locality or the state; or
5 (d) be a for-profit or a nonprofit hospital or medical center providing a variety of medical services for the
6 community or region.

7 (3) An applicant shall also provide a match of at least \$1 for every \$3 requested. The match:

- 8 (a) must be from new, unexpended funds available at the time of application;
9 (b) may include new loans and investments and expenditures for direct project-related costs such as new
10 equipment and buildings. The committee may consider recent purchases of fixed assets directly related to the
11 proposal on a case-by-case basis. A purchase of fixed assets directly related to the proposed training activities
12 that have been made within 90 days after submission of the application may be considered eligible by the
13 committee.

14 (4) (a) Except as provided in subsection (4)(c), a grant provided under this section may not exceed
15 \$5,000 for each ~~full-time position~~ new job or existing job for which an employee is being trained. A grant may be
16 provided only for a new job, existing job, or both that has an average weekly wage that meets or exceeds the
17 lesser of Montana's current average weekly wage or the current average weekly wage of the county in which the
18 employees are to be principally employed.

19 (b) The department may consider the value of employee benefits in calculating the expected annual
20 wage.

21 (c) The committee may, in exceptional circumstances, consider a higher grant ceiling for jobs that will
22 pay significantly higher wages and benefits if the need for higher training costs is documented in the application.

23 (d) A grant provided under this section must be proportional to the number of jobs ~~provided~~ created,
24 retained, or both, the expected average annual wage of all jobs ~~provided~~ for which the grant is made, and the
25 underlying economic indicators of the region where the majority of the jobs will be created.

26 (5) Funding ceilings must be determined by the availability of funding, the cost for each job, the quality
27 of the primary sector business proposal, and whether training will be provided in Montana.

28 (6) Not more than 50% of the grants provided under this section may be awarded for education or
29 skills-based training for employees in existing jobs.

30 ~~(6)(7)~~ The grant application, at a minimum, must contain:

1 (a) a business plan containing information that is sufficient for the committee to obtain an adequate
2 understanding of the business to be assisted, including the products or services offered, estimated market
3 potential, management experience of principals, current financial position, and details of the proposed venture.
4 In lieu of a business plan, the committee may consider a copy of the current loan application to entities such as
5 the Montana board of investments, the federal business and industry guarantee program, or the small business
6 administration.

7 (b) financial statements and projections for the 2 most recent years of operation and projections for each
8 of the 2 years following the grant, including but not limited to balance sheets, profit and loss statements, and cash
9 flow statements. A business operating for less than 2 years shall provide all available financial statements.

10 (c) a hiring plan for new jobs and a training plan for new jobs and existing jobs, which must include:

11 (i) a breakdown of the jobs to be created or retained, including the number and type of jobs that are
12 full-time, part-time, skilled, semiskilled, or unskilled positions;

13 (ii) a timetable for creating the ~~positions~~ new jobs, retaining existing jobs, or both and the total number
14 of employees to be hired, retained, or both;

15 (iii) an assurance that the business will comply with the equal opportunity and nondiscrimination laws;

16 (iv) procedures for outreach, recruitment, and screening; for new jobs and training; and placement of
17 employees for new jobs, existing jobs, or both;

18 (v) a description of the training curriculum and resources;

19 (vi) written commitments from any agency or organization participating in the implementation of the ~~hiring~~
20 training plan; and

21 (vii) a description of the type and method of training to be provided to employees, the starting wage and
22 wage to be paid after training for each ~~position~~ job, the job benefits to be paid or provided, and any payment to
23 eligible training providers.

24 ~~(7)(8)~~ If the committee determines that an applicant meets the criteria established in this section and has
25 complied with the applicable procedures and review processes established by the committee, the committee may
26 award a primary sector business workforce development grant to the employer and authorize the disbursement
27 of funds under contract to the primary sector business.

28 ~~(8)(9)~~ (a) A contract with a grant recipient must contain provisions:

29 (i) certifying that the amount of the grant already expended will be reimbursed in the event that the
30 primary sector business ceases operation in the state of Montana within the grant contract period, which may be

1 up to 2 years;

2 (ii) specifying that the employer may receive grant funds over the contract period only upon documenting
3 the ~~creation of eligible jobs, the hiring of employees for the jobs, or the~~ incurring of eligible training expenses
4 associated with eligible jobs; and

5 (iii) providing the department with annual reports and a final closeout report that documents the higher
6 wages paid to an employee upon completion of the training.

7 (b) The contract must be signed by the person in the primary sector business who is assigned the duties
8 and responsibilities for training and the overall success of the program and by the primary sector business's chief
9 executive. (Terminates June 30, 2009--sec. 4, Ch. 169, L. 2005.)"

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11 COORDINATION SECTION. **Section 5. Coordination instruction.** If Senate Bill No. 89 is not passed
12 and approved, then [this act] is void.

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14 NEW SECTION. **Section 6. Effective date.** [This act] is effective on passage and approval.

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